

May 20, 2013

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation: MB Docket No. 11-105, *TiVo Inc.*,
Petition for Waiver of Sections 15.117(b), 15.118(b), 15.123(b)(1),
15.123(c), and 15.123(d) of the Commission's Rules

Dear Ms. Dortch,

This is to notify you that on May 16, 2013, John Godfrey, Vice President of Communications Policy and Regulatory Affairs for Samsung Electronics America, Inc. ("Samsung"), and Natalie Roisman and Neil Chilson of Wilkinson Barker Knaauer, LLP, counsel for Samsung, met with Nancy Murphy, Alison Neplokh, Mary Beth Murphy, Steve Broeckaert, John Gabrysch, and Brendan Murray of the Federal Communications Commission's ("FCC" or "Commission") Media Bureau ("Bureau"). The purpose of this meeting was to pursue, in the context of the above-referenced proceeding, potential avenues for expedited waiver of the analog tuner requirement in 47 C.F.R. § 15.118(b) for Samsung's forthcoming Smart Media Player. TiVo Inc.'s ("TiVo's") pending waiver request (which Samsung fully supports and does not wish to delay) demonstrates that cable customers do not want or need analog tuners in their retail CableCARD set-top boxes – whether those boxes are manufactured by TiVo or by another manufacturer.¹

In the meeting, the participants described the Smart Media Player, an innovative product with a compelling consumer value proposition based upon seamless integration of desirable services and reduction of monthly cable equipment rental fees. Smart Media Player will access unidirectional (not interactive) linear cable content through a CableCARD, connect to interactive, over-the-top services and Internet content through the consumer's broadband Internet subscription, provide a free electronic program guide, and offer a seamless, integrated Samsung user interface. The Smart Media Player will include a QAM digital tuner, but Samsung has not

¹ See *TiVo Inc. Petition for Waiver of Sections 15.117(b), 15.118(b), 15.123(b)(1), 15.123(c), and 15.123(d) of the Commission's Rules*, MB Docket No. 11-105, at 6 (filed Feb. 4, 2013) ("*TiVo II Petition*").

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included an analog tuner. The company does not believe there is any consumer demand for a retail device with an analog tuner that receives programming that is likely to be available in digital form, is more costly, and consumes additional energy.

Accordingly, the participants informed the Bureau staff that Samsung intends to file a petition for waiver of the analog tuner requirement in Section 15.118(b) of the Commission's rules. This forthcoming waiver request will be entirely consistent with the waiver granted to TiVo in 2011² and with TiVo's pending request in the instant proceeding.

The participants also discussed that timing for a waiver grant is critical and serves as the basis for Samsung's participation in the instant proceeding. If Samsung cannot provide Smart Media Players to retailers by the end of the summer, it risks losing the opportunity to obtain any shelf space in 2013, including during the all-important holiday season. This would delay consumer access to the Smart Media Player until early in 2014, an unnecessary wait that would be unfair to consumers and serve no purpose. Samsung therefore proposed several possible approaches to expedite grant of a waiver for the Smart Media Player in the context of the pending TiVo proceeding. First, the Bureau could grant TiVo's pending waiver request broadly to cover CableCARD-enabled devices that provide identical functionality (such as Samsung's Smart Media Player), given that TiVo's request already raised all the same issues for public comment (garnering no opposition at all) and contemplated a broad waiver that could easily be extended to like devices from other companies.³ Alternatively, the Bureau could, in granting TiVo's request, establish a streamlined, accelerated waiver process for subsequent waiver petitions. Under this process, a party's request would be individually granted on an expedited basis if the requesting party submits a certification attesting, under penalty of perjury, that the party is seeking waiver of 47 C.F.R. § 15.118 for a CableCARD device that is functionally identical in all material respects to a device for which the Bureau has already granted a waiver of that rule, and the party agrees to comply with all of the conditions, if any, imposed in such earlier waiver grants.⁴

² See *TiVo, Inc. Request for Waiver of Section 15.118(b), 15.123(b)(1), and 15.123(c) of the Commission's Rules*, MB Docket No. 11-105, Memorandum Opinion and Order, 26 FCC Rcd 12743, 12748 ¶ 10 (MB 2011) ("*TiVo Analog Tuner Waiver*").

³ *TiVo II Petition* at 4 (seeking permission "to discontinue including analog tuners in future TiVo products"). This approach would be similar to the general waiver the Bureau provided for devices substituting an IP-based output for an IEEE 1394 output. See *Intel Corp., Motorola, Inc., and TiVo Inc., Requests for Waiver of Section 76.640(b)(4)(ii) of the Commission's Rules*, 25 FCC Rcd 7539, 7544 (MB 2010).

⁴ This approach would be procedurally similar to the process created by the Wireless Telecommunications Bureau in the tower lighting inspection context. See *TowerSentry LLC Request for Waiver of 47 C.F.R. § 17.47(b) and Joint Petition of Diamond Communications LLC and Diamond Towers LLC for Waiver of 47 C.F.R. § 17.47(b)*, 24 FCC Rcd 10274, 10279 (WTB 2009).

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Copies of the attached handouts were provided to the Bureau staff. This letter is filed pursuant to Section 1.1206 of the Commission's rules, and copies will be delivered to each of the Bureau participants. Please direct any inquiries to the undersigned.

Respectfully submitted,
WILKINSON BARKER KNAUER, LLP

By: /s/ Natalie G. Roisman
Natalie G. Roisman
Neil A. Chilson
Counsel to Samsung Electronics America, Inc.

cc (via email): Nancy Murphy
Alison Neplokh
Mary Beth Murphy
Steve Broeckaert
John Gabrysch
Brendan Murray

SAMSUNG ELECTRONICS AMERICA
FCC MEDIA BUREAU MEETING – MAY 16, 2013

I. Samsung intends to file a request for waiver of Section 15.118(b) for its new “Smart Media Player” (SMP) set-top box, which is intended for use by cable customers in systems where all offerings are available in digital

- Samsung’s history of innovation greatly benefits the navigation device marketplace
 - The SMP meets consumer demand and FCC goals by fully integrating linear cable programming, OTT video, and a proprietary, user-friendly, free interactive guide
 - Samsung did not include an analog tuner in the SMP because it would increase costs and energy consumption, and there is no practical need to include one
 - Time is of the essence: in order to ensure retail shelf space for SMP for the holiday season, models must first ship to stores several months in advance

II. Waiver is appropriate to ensure consumer access to a new, competitive product

- For purposes of Section 15.118, the features and intended use of the SMP are identical to those of the TiVo devices for which waivers have been unopposed
- More broadly:
 - The cost of analog equipment is increasing as its use is diminishing
 - The SMP will stimulate competition in the navigation device market and promote the transition to digital cable
 - TiVo’s data shows that consumers will not be confused by lack of an analog tuner, and Samsung will take all necessary steps to educate purchasers

III. We request that the Media Bureau consider mechanisms for streamlining and expediting Samsung’s – and possibly other parties’ – request for analog tuner waivers

- Expedited waivers would promote the emerging market in digital cable devices and avoid having the Bureau expend limited resources on case-by-case processing
- The most efficient mechanism would be to grant TiVo’s pending, unopposed request broadly to cover CableCARD-enabled devices that provide the same functionality
 - The public twice has had the opportunity to raise concerns regarding a waiver (including for all future TiVo products), and no such concerns have been identified
 - In the 1394/IP output context, the Bureau previously has granted such a general waiver for classes of devices
- Alternatively, we request that the Bureau establish a streamlined, accelerated waiver process and announce it in the grant of TiVo’s request
 - The Wireless Telecommunications Bureau adopted this approach in connection with inspection requirements for antenna/tower structure lighting
 - Parties would certify that (1) the party is seeking a waiver of the analog tuner rule, (2) for a CableCARD-enabled, set-top box that is functionally equivalent to a device for which the Bureau already has granted a waiver, and (3) the party agrees to comply with conditions imposed in earlier waiver grants
- If the Bureau does not adopt a new approach, we request that it review and grant Samsung a waiver on an expedited basis



Smart Media Player

Experience

New Wave of Smart



Win-Win Innovation

Channels

- New breed of product for consumers
- New revenue from Product Installation Service

Cable Operators

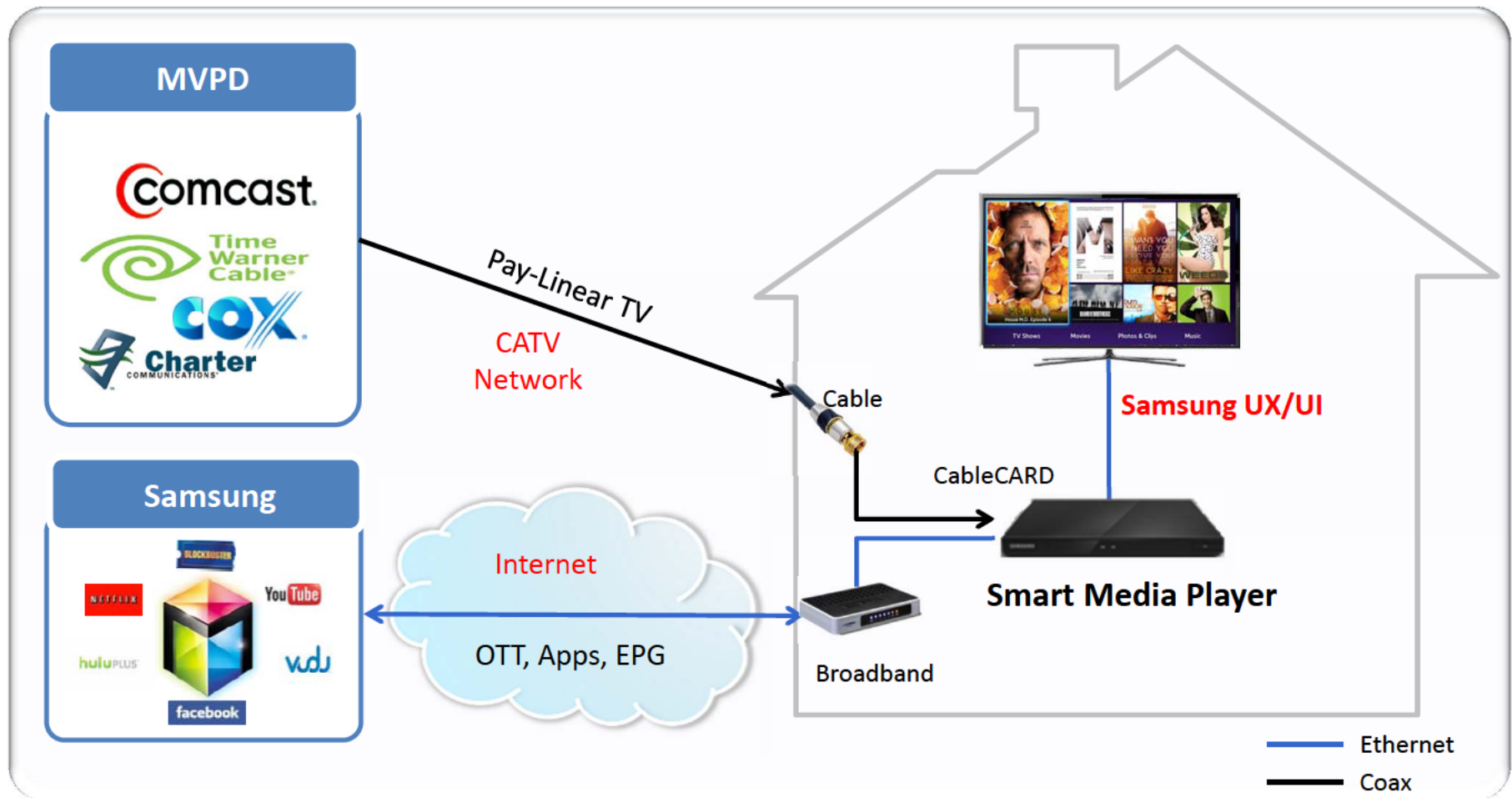
- Customer retention
- Reduction in STB CAPEX and OPEX

Consumers

- Access to more content (Pay TV + OTT + Apps) in one box
- Reduction of monthly bill
- Selection of STB and media player with its own features

Product Concept

- Basic Product Concept : Full Live TV + Premium OTT + Smart Apps
 - “Samsung Smart Media Player”



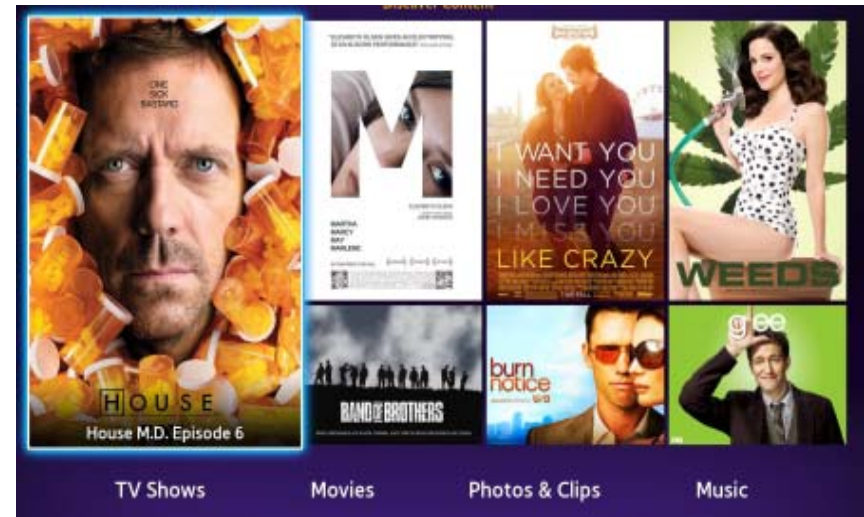
※ Mechanical Design is subject to change

User Experience - Sub Menu

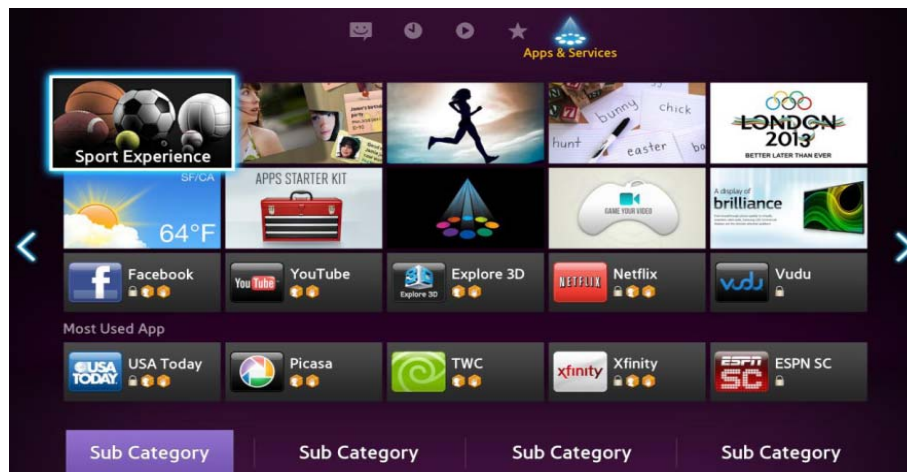
[Linear TV Guide]



[Movie & TV Show]



[Apps]



[Photo, Video & Music]

